

REMARKS/ARGUMENTS

Claims 2-7 and 13-20 are in the case. Claims 8-11 have been withdrawn from consideration as directed to a non-elected invention. Applicants acknowledge that the restriction requirement has been made final and have thus request that Claims 8-11 be cancelled without prejudice or disclaimer.

In the Office Action, Claims 19 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,402,301 to Powers et al., in view of U.S. Patent No. 5,454,928 to Rogers et al. and as further evidenced by U.S. Patent No. 5,105,588 to Verley et al. and U.S. Patent No. 6,045,214 to Murthy et al. Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over the '301 patent to Powers et al. in view of the '928 patent to Rogers et al., the '588 patent to Verley et al., the '214 patent to Murthy et al., and further in view of U.S. Patent No. 4,950,583 to Brewer et al. Claims 2-3, 5, and 7-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over the '301 patent to Powers et al. in view of the '928 patent to Rogers et al., the '588 patent to Verley et al., the '214 patent to Murthy et al., the '583 patent to Brewer et al., and further in view of U.S. Patent No. 6,448,313 to Patel. Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over the '301 patent to Powers et al. in view of the '928 patent to Rogers et al., the '588 patent to Verley et al., the '214 patent to Murthy et al., and further in view of U.S. Patent No. 5,677,063 to Kamiyama et al. and U.S. Patent No. 6,409,312 to Mrvos et al. Claims 13-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over the '301 patent to Powers et al. in view of the '928 patent to Rogers et al., the '588 patent to Verley et al., the '214 patent to Murthy et al., the '063 patent to Kamiyama et al., and the '312 patent to Mrvos et al., and further in view of the '313 patent to Patel. Claims 17-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over the '301 patent to Powers et al. in view of the '928 patent to Rogers et al., the '588 patent to Verley et al., the '214 patent to Murthy et al., the '063 patent to Kamiyama et al., and the '312 patent to Mrvos et al.

Claims 2-7, 13-18, and 19-20 Are Patentable Over the Cited References.

In all of the §103(a) rejections set forth above, U.S. Patent No. 6,402,301 to Powers et al. is cited as the primary reference. However, as evidenced by the attached declaration of one of the inventors, Shauna M. Leis, the invention was conceived of prior to the filing date of the '301 patent and was diligently reduced to practice.

In the declaration submitted with the response filed on December 31, 2002, the declarant, Brian Hart, made the statement that the inventors "... have been diligent in pursuing the invention up to and including the filing date of this application, namely August 14, 2001." It is well settled that filing a patent application is a constructive reduction to practice.

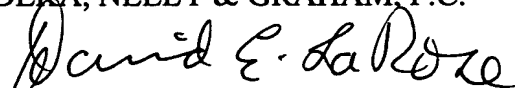
Nevertheless, in order to erase any doubts that the invention was reduced to practice diligently, applicants hereby enclose another declaration including notebook pages and photomicrographs evidencing reduction to practice of the invention. Some of the dates redacted from the notebook pages are before October 27, 2000, and the dates on the last written page of the notebook pages and the photomicrograph pages are dated less than two months after October 27, 2000. It is submitted that the foregoing declaration and notebook pages are sufficient to also establish reduction to practice of the invention. Having thus removed the primary reference as prior art in all of the rejections, it is submitted that the rejections of claims 2-7, 13-18, and 19-20 are untenable and should be withdrawn.

In the event this response is not timely filed, Applicants hereby petition for the appropriate extension of time and request that the fee for the extension along with any other fees which may be due with respect to this paper be charged to our Deposit Account No. 12-2355.

Respectfully submitted,

LUEDEKA, NEELY & GRAHAM, P.C.

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February 6, 2003

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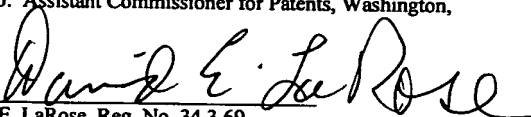
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Date: February 6, 2003


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